

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CARL S. JONES, JR., ANTHONY)	
LEE, COURDE DAYE, DAELON)	
HILL-JOHNSON, DANIEL)	
MILES, DEVIN HALE, GERON)	
ANDERSON, JAQUE DAVID,)	Civil Action No. 21-1094
JERMAINE DEHONNEY, JUAN)	
HAYDEN, MARIO WALL,)	
MARTELL SMITH, ROMAN)	
JONES, STEPHEN DAY, and)	District Judge W. Scott Hardy
WILLIAM FIELDER,)	Magistrate Judge Lisa Pupo Lenihan
)	
Plaintiffs,)	
v.)	
)	
COUNTY OF ALLEGHENY and)	
WARDEN ORLANDO L. HARPER,)	
)	
Defendants.)	

MEMORANDUM ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) entered by Magistrate Judge Lisa Pupo Lenihan on June 8, 2022. (Docket No. 94). As background, the case was initiated by Plaintiff Carl S. Jones, Jr. on behalf of himself and 29 other individuals who currently are, or formerly were, confined at the Allegheny County Jail (“ACJ”). The Complaint asserts claims against Defendants for unconstitutional conditions of confinement at the ACJ relative to the COVID-19 virus. (Docket No. 6).

As explained in the R&R, the Court issued an order on September 23, 2021 (Docket No. 29) advising all Plaintiffs that they have a continuing obligation to notify the Court of any change in their address by filing a document entitled “Notice of Change of Address.” The Court further advised that the failure to do so may result in the dismissal of the case as to those individuals if the

Court or Defendants are unable to serve documents on them because they have not kept their address of record current. (*Id.* at 8).

As further explained in the R&R, on a number of dates between January 22, 2022 and June 1, 2022, copies of various documents which the Court had mailed to Plaintiffs Anthony Lee, Jaque David, Jermaine Dehonney and William Fielder were returned to the Court as not deliverable as addressed. (*See* Docket No. 94 at 2). Consequently, because these four Plaintiffs have not notified the Court of their current addresses, the R&R recommends that they be dismissed from this action for failure to prosecute. (*See id.* at 2, 8). Service of the R&R was made on Plaintiffs by mail, and any objections were due by June 27, 2022. Thereafter, none of the Plaintiffs filed objections to the R&R.

The Federal Rules of Civil Procedure provide that a party may file specific written objections to the proposed findings and recommendations of a magistrate judge, and a district judge must conduct a *de novo* review of any part of the R&R that has been properly objected to. Fed. R. Civ. P. 72(b)(2), (b)(3); 28 U.S.C. § 636(b)(1). Here, however, because no party filed any objections to the R&R, this Court reviews the magistrate judge's decision for plain error. *See Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006); *see also* Fed. R. Civ. P. 72(b), Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

In this case, upon careful review of the R&R and the entire record, and finding no plain error on the face of the record, the Court will accept Judge Lenihan's recommendation. In so ruling, the Court agrees with Judge Lenihan's determination that Plaintiffs Anthony Lee, Jaque David, Jermaine Dehonney and William Fielder should be dismissed from this action for their failure to prosecute in view of the factors the Court is to consider pursuant to *Poulis v. State Farm Fire &*

Cas. Co., 747 F.2d 863, 868-70 (3d Cir. 1984). As Judge Lenihan correctly observed in the R&R: these Plaintiffs are proceeding *pro se*, thus they bear responsibility for failing to comply with the Court's orders; Defendants could suffer prejudice if the case is put on hold indefinitely until these Plaintiffs decide to comply with the Court's orders or they are located (and the Court has no way to locate those Plaintiffs who have failed to update their addresses); these Plaintiffs have made it clear that they do not desire to be a party to this action by failing to provide their current addresses to the Court as required; there is no indication in the record that these Plaintiffs' failure to update their addresses as ordered was the result of any excusable neglect; and, it is unlikely that the imposition of costs or fees likely would be an effective sanction given that these Plaintiffs are or were incarcerated. (Docket No. 94 at 4-8).

Accordingly, in view of the foregoing, the Court enters the following Order:

AND NOW, this 7th day of July, 2022, IT IS HEREBY ORDERED that the R&R (Docket No. 94) is ADOPTED as the Opinion of the Court.

For the reasons set forth in the R&R, IT IS FURTHER ORDERED that the following Plaintiffs are DISMISSED from this case for their failure to prosecute: (1) Anthony Lee; (2) Jaque David; (3) Jermaine Dehonney; and (4) William Fielder.

s/ W. Scott Hardy
W. Scott Hardy
United States District Judge

cc: Carl S. Jones, Jr. *(via U.S. mail)*
QK9540
SCI Coal Township
1 Kelley Drive
Coal Township, PA 17866

Anthony Lee, 75466
Courde Daye, 179147
Daelon Hill-Johnson, 180163
Daniel Miles, 142047
Devin Hale, 183220
Geron Anderson, 173396
Jaque David, 159376
Jermaine Dehonney, 163725
Juan Hayden, 19930
Mario Wall, 95319
Martell Smith, 46430
Roman Jones, 158919
Stephen Day, 96266
William Fielder, 109922

All of the above individuals (via U.S. mail) at the following:

Allegheny County Jail
950 Second Avenue
Pittsburgh, PA 15219